

the second input device comprises a device such that a user inputs information via the second input device using a physical action other than a hand motion.

REMARKS/ARGUMENTS

In the Examiner's Office Action mailed December 12, 2004, claims 1-23 were rejected. Claims 1, 2 and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by *Harp, Jr.* (U.S. 5,585,612). Claims 3-10 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable under *Harp, Jr.* in view of *McClure, et al.* (U.S. 6,250,548). Claims 11-20 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Harp, Jr.* in view of *McClure, et al.* in further view of *Sarner, et al.* (U.S. 5,666,765) in further view of *Trotta, et al.* (U.S. 5,072,999). For the reasons explained below, Applicant respectfully requests that claims 1-23 be allowed.

Applicant respectfully submits that *Harp, Jr.*, alone and in combination with the other references cited by the Examiner, does not disclose or render obvious Applicant's invention as claimed in claims 1-23. In rejecting claims 1-23, the Examiner cited *Harp, Jr.* as disclosing both a first input device wherein the user inputs information via a first physical action and a second input device wherein the user inputs information via a second physical action. Applicant has amended the present claims to specify that the first input device receives input via a first physical action of a first body part, while the second input device receives input via a second physical action of a second body part. Applicant respectfully notes that *Harp, Jr.* merely discloses the use of hand motions to input selections. While Examiner cites Column 4, lines 10-17 of *Harp, Jr.* as disclosing both a first input device that receives input using a hand motion and a second input device that receives input using a physical action other than a hand motion, Applicant respectfully notes that Column 4, lines 10-17 of *Harp, Jr.* discloses switches 16 used

to select a candidate or side of an issue and a button 18 used to lock in a vote. Even assuming that button 18 of *Harp, Jr.* may be considered an “input device” when it merely serves to lock user selections, Applicant notes that both switches and buttons are generally operated using hand motions. Applicant further notes that FIG. 1 of *Harp, Jr.* illustrates both switches 16 and button 18 as substantially adjacent on the face of ballot box 12, further indicating that both are operated by hand motion. Applicant’s review of *Harp, Jr.* has identified no suggestion that a first body part could be used to operate switches 16 while a second body part could be used to operate button 18. Accordingly, Applicant respectfully submits that the claims presently pending should be allowed, as all pending claims are patentably distinct over *Harp, Jr.* because they require a first input device that receives input via a first physical action of a first body part and a second input device that receives input via a second physical action of a second body part.

Applicant further respectfully submits that *Harp, Jr.* does not teach the use of both a first device and second input device in a single voting apparatus. In particular, *Harp, Jr.* explains that “[t]he present voting machine may comprise an electronic voting machine *or* a paper ballot voting machine.” Col. 2, lines 56-57 (emphasis added). In the case of an electronic voting machine, *Harp, Jr.* explains that the “machine is equipped with a field of electronic switches.” Col. 2, lines 58-59. While *Harp, Jr.* does disclose the use of an additional button for use in locking in a user’s selections in one embodiment, the selections themselves are input using only switches. See, Col. 4, lines 10-17.

Harp, Jr. does not teach the combination of multiple input devices in a single apparatus. *Harp, Jr.* makes clear that the use of its teachings with a paper voting machine is a completely separate embodiment, explaining that “[a]lternatively, in a paper ballot voting machine the voting means may be a field of punch guides for guiding a punch through a punch

ballot. Still further voting means may be a field of marker guides for guiding a marker to a proper position on a paper ballot to record a vote.” Col. 2, line 64 - Col. 3, line 1 (emphasis added). *Harp, Jr.* carries the distinction between an electronic voting machine and a paper ballot voting machine throughout. In particular, *Harp, Jr.* explains that FIG. 1 therein shows “a *first* embodiment in the present invention in the form of an electronic voting machine 10.” Col. 4, lines 3-5 (emphasis added). *Harp, Jr.*, later describes an alternative embodiment using paper ballots, stating that as “shown in FIG. 3, the same principles of the present invention may be applied to allow an illiterate, sight impaired or blind individual to vote on a paper ballot voting machine 10’ *whether* utilizing a punch ballot through which holes are made with a punch *or* a marked ballot on which marks are marked with a marker.” Col. 6, lines 4-9 (emphasis added). *Harp, Jr.* makes clear that voter selections are made using switches in an electronic voting machine, while voter selections are made using *either* a punch or a marker in a paper ballot voting machine. Because *Harp, Jr.* teaches the use of only a single input device with a voting apparatus, Applicant respectfully submits that all pending claims of the present application are allowable, as all pending claims require both a first input device and a second input device.

As claims 1, 4, and 11 have been amended to render them further patentably distinct, and as claims 2-3, 5-10, and 12-23 depend from patentably distinct claims 1, 4, and 11, Applicant respectfully requests the allowance of claims 2-3, 5-10, and 12-23. Applicant further respectfully submits that Examiner’s rejections of claims 2-3, 5-10, and 12-23 pursuant to 35 U.S.C. 103(a) should be removed for the reasons described in Applicant’s responses to previous Office Actions.

CONCLUSION

For the reasons stated above, Applicant respectfully submits that all pending claims are believed to be in condition for allowance. Applicant respectfully requests the withdrawal of the pending rejections and the allowance of claims 1-23. The Examiner is invited to telephone the undersigned if he believes that an interview would advance the prosecution of the application.

Respectfully submitted,

A handwritten signature in black ink that reads "John E. Gibson". The signature is written in a cursive, flowing style.

John E. Gibson
Reg. No. 52,944

JEG/drb

SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd
Kansas City, Missouri 64108
Phone: 816/474-6550
Fax: 816/421-5547